

December 9, 2014

Minimize the Risks Associated With Employer-Sponsored Holiday Parties

It's that time of year again! With the holiday season upon us, many employers will sponsor year-end parties for their staff. Properly done, this can be a nice opportunity to thank and congratulate employees for work well done, bolster morale, and promote a friendly work environment. There are employment risks, however, and we receive calls every year over concerns about potential liability from a party. Employers should consider the following tips to reduce their exposure.

Prevent Sexual Harassment and Other Inappropriate Behavior

It should go without saying that a festive atmosphere does not mean that the company's ban on sexual harassment and other misconduct has been relaxed. Supervisors should be reminded that employees will look to them to set an appropriate example, and that they remain responsible for enforcing the employer's policies about discriminatory or harassing speech and conduct. All staff should be told about the party's dress code, and the employer may wish to advise staff members, either individually, by memo, or as a group, that they are encouraged to have fun but should do so in a responsible and professional manner. Mistletoe and sexual humor (such as gag gifts) should especially be discouraged. Many employers have found it helpful to assign specific managers or supervisors to monitor the party, so that they can intervene before a matter gets out of hand and address concerns that arise during or after the party. (Needless to say, monitors should keep their drinking at the party to a minimum.) Finally, employers might consider allowing employees to invite spouses or partners to the party to discourage inappropriate behavior between coworkers.

Avoid Alcohol-Related Injuries

An alcohol-free party offers fewer risks of injury and employment liability. If alcohol is served, over-indulgence should be discouraged, and food and non-alcoholic drinks should be offered to help employees make responsible choices about their alcohol consumption. In addition, the employer should make alternate transportation

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available so employees can get home safely. Some employers prefer to hold holiday parties at a restaurant or other outside establishment with a liquor license, or hire professional bartenders (trained to prevent excessive alcohol consumption) to serve drinks on company premises. In either case, the employer should confirm that the caterer has appropriate liability insurance and be aware that Workers Compensation may be applicable if an employee (or guest) is injured during the party. In New York, for example, employees injured during employer-sponsored events may be entitled to Workers Compensation benefits, but may not be compensated for injuries resulting solely from their own intoxication.

Religious Themes

Most employers are fortunate to have many faiths and convictions represented in their workforce. To avoid exclusion or offense, care should be taken in naming the event and choosing the themes for any invitations or decorations, and the employer should be receptive to input from employees. If all employees (whether observant or not) are delighted with a lit menorah and decorated tree, such items may be welcome; but many Muslim, Hindu, Sikh, and other traditions (including some Christian ones) do not observe or publicly celebrate major religious holidays at this time of year, and some employees prefer a strictly secular workplace regardless of their religious views. Some employees disagree, as well, whether terms such as “Christmas,” “Holiday”, or even “Yule” have secular as well as sacred meanings. Promoting diversity and inclusion, in such a setting, may be reason to favor a winter theme or to emphasize the end of the year, which all employees can participate in equally.

We wish everyone a happy and safe holiday season. If you have any questions, please contact Laura Monaco at (212) 758-7754, or any other attorney at the Firm.

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